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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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COMMISSIONERS

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION ON BEHALF OF THE
UNION PACIFIC RAILROAD COMPANY TO
CONSTRUCT A GRADE-SEPARATED
CROSSING AT THE SANTAN FREEWAY
(SR202L) AAR/DOT NO. 922-450T, IN THE
TOWN OF GILBERT, MARICOPA COUNTY,
ARIZONA.

DOCKET NO. RR-03639A-03-0746

DECISION NO. 66605**OPINION AND ORDER**

DATE OF HEARING:

November 13, 2003

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

APPEARANCES:

Mr. David Ronald, Staff Attorney, Legal
Division, on behalf of the Utilities Division of
the Arizona Corporation Commission.

BY THE COMMISSION:

On October 9, 2003, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") a request for approval to construct a grade-separated crossing for the Union Pacific Railroad ("Railroad") track over its intersection with the new Santan Freeway in Gilbert, Maricopa County, Arizona, AAR/DOT No. 922-450T ("Application").

On October 24, 2003, by Procedural Order, the Application was set for hearing and ADOT was ordered to provide notice to any interested parties of the Application and the hearing.

On October 30, 2003, ADOT filed certification that notice had been provided pursuant to the terms of the Procedural Order.

On November 13, 2003, a full public hearing was held before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the matter was taken under advisement pending submission of a Recommended Opinion and Order to the Commission.

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On October 9, 2003, ADOT filed an Application in which it requested an Opinion and Order from the Commission to approve an agreement between ADOT and the Railroad for the construction of a grade-separated crossing for the Railroad over its intersection with the new Santan Freeway which is under construction in Gilbert, Maricopa County, Arizona, AAR/DOT No. 922-450T. To facilitate this construction, a shoofly with warning signals will be constructed for the Railroad to use temporarily.

2. On October 30, 2003, ADOT filed certification that it had provided notice by certified U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on November 13, 2003.

4. The Application provides for the Railroad's tracks to be constructed on an overpass with the new Santan Freeway's roadway running beneath the Railroad overpass. The Railroad will also install temporary warning signals to accommodate the temporary road detour where it intersects with the shoofly.

5. Staff testified that the cost for the installation of the overpass as provided in the Application will be funded by ADOT.

6. After construction of the grade-separated crossing, the Railroad will be responsible for the maintenance of its tracks, in accordance with A.A.C. R14-5-104, but the overpass bridge will be maintained by ADOT.

7. Staff has recommended that the Application be approved.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the Railroad and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. The construction of the grade-separated crossing at the new Santan Freeway is necessary for the public's convenience and safety.

4. The Application should be approved as recommended by Staff.

ORDER

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application on behalf of the Union Pacific Railroad Company is hereby approved.

IT IS FURTHER ORDERED that the Union Pacific Railroad shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall maintain its tracks on the Santan Freeway overpass in accordance with A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

  
CHAIRMAN COMMISSIONER COMMISSIONER

 
COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 9th day of December, 2003.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____
MES:mlj

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UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO.:

RR-03639A-03-0746

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